

OUTLINE OIL CORP.  
MRS. I. M. FELDKAMP, JR.

IBLA 85-438

Decided January 23, 1987

Appeal from a decision of the California State Office, Bureau of Land Management, declaring 59 mining claims null and void ab initio. CAMC 47207-47213, CAMC 47216, CAMC 47220-47227, CAMC 47229-47271.

Set aside and remanded.

1. Mining Claims: Withdrawn Lands -- Mining Claims: Location -- Mining Claims: Lode Claims

A mining claim located on land withdrawn or reserved from mineral location is null and void ab initio; however, the side and end lines of a lode claim may extend onto withdrawn land for the purpose of defining extralateral rights to veins or lodes which apex within the claim, although the locator does not thereby acquire rights to use the surface of the withdrawn land and may or may not acquire rights to the minerals underneath.

2. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Determination of Validity -- Mining Claims: Recordation

BLM may properly require a mineral locator to supply a description of the location of his claim to within a quarter section if this information has not been provided with the filing of a location notice. A locator's failure to properly record a claim may result in a determination that it has been abandoned and is therefore void. However, a locator's failure to file a map or the information required by the regulations is a curable defect, and BLM must notify the claimant and provide an opportunity to supply the information before declaring the claim abandoned and void.

3. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

A mining claimant is not required to submit to BLM information sufficiently precise for his claim to be

projected onto a township plat. Neither the statute nor the regulations requires a precise map or description of the position of a claim. The test established by statute for the sufficiency of a recorded description is whether the claim may in fact be found and identified on the ground by following the information provided. This is a factual question and unless the description or map is on its face so deficient as to be inadequate as a matter of law, the issue of its sufficiency can be determined only by testing the information in the field.

4. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims: Recordation

Because a recorded description and the map filed with BLM are not required to be precise, the uses which may be made of information submitted necessarily depend upon its relative accuracy. If accurate, a map will show the position of a claim in relation to landmarks or the legal boundaries of the public land survey, and may permit BLM to determine that the land on which the claim is located has been withdrawn. But a map is useful only to the extent it accurately represents the territory and claim mapped.

APPEARANCES: Donald E. Trott, Chairman of the Board, for appellant, Outline Oil Corporation; Mrs. I. M. Feldkamp, Jr., pro se.

OPINION BY ADMINISTRATIVE JUDGE ARNESS

Outline Oil Corporation (Outline) and Mrs. I. M. Feldkamp, Jr., have appealed a decision of the California State Office, Bureau of Land Management (BLM), dated February 5, 1985, declaring 59 lode mining claims null and void ab initio. The reason stated by BLM for its decision was that the claims were located on land in T. 13. S., R. 22 E., San Bernardino Meridian, that had been withdrawn by Multiple Use Classification Order R-2821 and by a first form reclamation withdrawal. Outline argues that the decision is in error as to 16 of the claims because they are located in whole or part in T. 13-1/2 S., R. 22 E., San Bernardino Meridian, and not T. 13 S., R. 22 E., San Bernardino Meridian, and are for this reason not within the withdrawn areas.

The case file contains notices of location for 75 lode mining claims located by I. M. Feldkamp, Jr., on April 6 and June 16, 1971, recorded with Imperial County, California, on April 30 and September 8, 1971, and filed with BLM October 16, 1979. The claims are the Manga Nos. 1 through 7, Mango Nos. 1 through 58, Mango Nos. 1-A through 5-A, and Mango Nos. 1-B through 5-B. A community property order from the Superior Court of the State of California

for the County of San Bernardino, Probate Division, shows that Mr. Feldkamp died on May 13, 1978, and that title to the 75 claims passed to Mrs. Feldkamp as surviving spouse. Of the 75 claims, the record indicates that she retains full ownership of the Mango Nos. 31 through 58 and that some interest in the remainder has been acquired by Outline. The BLM decision found the Manga Nos. 1 through 7, Mango Nos. 3, 7 through 14, and Mango Nos. 16 through 58 to be null and void ab initio.

Outline notes that some of the claims listed in the BLM decision are not owned by Outline. Appellant Feldkamp states that claims were sold by her to Outline and adopts the rationale of the statement of reasons submitted by the corporation. Outline appeals the BLM decision as to the Manga 6 and 7 and the Mango 3 and 7 through 20, asserting those claims are not within the withdrawn area. Feldkamp indicates, by exhibits attached to the statement of reasons, that she intends to appeal the invalidation of those claims still retained by her which are not included in the Outline appeal and are not located on the withdrawn lands.

[1] The parties do not present any disagreement as to the applicable law. The relevant legal principles are well established. A mining claim located on land withdrawn or reserved from mineral location is null and void ab initio; however, the side and end lines of a lode claim may extend onto withdrawn land for the purpose of defining extralateral rights to veins or lodes which apex within the claim, although the locator does not thereby acquire rights to use the surface of the withdrawn land and may or may not acquire rights to the minerals underneath. Nancy Lee Mines, Inc., 89 IBLA 257 (1985); Donald R. Rowley, 89 IBLA 248 (1985); Timberline Mining Co., 87 IBLA 264 (1985). The parties do disagree about the position of the claims in relation to boundaries established by the public land survey. Because the information in the case file does not permit any determination as to the correctness of BLM's decision, we set it aside as to those claims for which the appeal was filed. In addition, because, as noted below, the position of the Manga Nos. 1 through 7 claims in relation to the other claims is not clear, we set aside the decision as to these claims.

Township 13 S., R. 22 E., San Bernardino Meridian, lies west and south of the Colorado River which forms the border between the States of California and Arizona. Because the river cuts through, T. 13 S. is a partial township with only sections 6, 7, 17 through 20, and 25 through 36 existing as full sections, and the remainder are fractional sections or nonexistent. Of these, sections 18, 19, 29 through 33, and the northern half of sections 34 and 35 were withdrawn from the location of mining claims by Multiple Use Classification Order R-2821, 35 FR 17961 (Nov. 21, 1970). In addition, the historical index for the township shows that since 1902 various portions of the township have been withdrawn for the Colorado River Reclamation Project. The BLM decision found the mining claims to be located in sections 19 through 21 and 28 through 31, T. 13 S., R. 22 E. The decision also found the lands in sections 20 through 28 were withdrawn from location and entry under the mining law pursuant to a reclamation withdrawal.

A map of the lode claims was filed with BLM when their location notices were filed in 1979. It shows the position of the claims in relation to township and range lines. In June 1980, BLM sent a postcard stating that the map was insufficient and that information as to quarter section, section, township, and range was needed for each claim. See 43 CFR 3833.1-2(b). In response, a list giving this information was provided. In 1984 section lines were projected onto the map in pencil by a BLM mining claims unit. Pencil notes also appear on the list of claims. Apparently, BLM's decision was based on its projection of sections onto the map and information from the list. An examination of the two, however, shows that there are incongruities between the information and the map.

In support of their appeal appellants have submitted maps showing the position of the claims in relation to the boundaries of the public land survey except for the Mango Nos. 31 through 58. Appellants' maps differ from that used by BLM in three important respects. First, they show the Manga Nos. 3 through 7 to form a tier of claims bordering the Mango claims to the west rather than showing the Manga Nos. 1 through 5 to border the Mango claims to the north. Second, appellants' maps show that township lines meet in the Mango No. 4 rather than the Mango No. 4-A as originally shown on the map filed with the location notices. Third, the township lines which meet are shown to be the northern and western boundaries of T. 14 S., R. 22 E. rather than the southern and western boundaries of T. 13 S., R. 22 E. As a result, appellants' maps show the claims to be located outside of T. 13 S., R. 22 E. (in T. 13 1/2 S., R. 22 E. and in T. 14 S., R.'s 21 and 22 E.), as opposed to the BLM map which showed the claims declared null and void to be located within T. 13 S., R. 22 E. The record does not disclose the status of lands outside T. 13 S., R. 22 E. As the record before us does not clarify the position of the claims with respect to the withdrawn lands, we set aside the decision declaring the claims under appeal null and void ab initio.

The principles of regularity in the public land survey, of course, would normally require that the southern boundary of T. 13 S. also be the northern boundary of T. 14 S. and that the western boundaries of both townships be coextensive. However, in this area of California it appears that there are numerous irregularities as to the position of townships in relation to each other. In particular, appellants' maps show T. 13-1/2 S. to lie north of T. 14 S. and also show the western border of T. 13 S. and T. 13-1/2 S. to lie approximately one-half section further west than the western border of T. 14 S. As a result of the differences in townships and the difference as to the claim in which the township lines meet, appellants' maps show more of their claims to lie south of T. 13 S. than projected by BLM and that those within T. 13 S. lie further to the east than shown by BLM.

While the discrepancies in the maps as to number and position of townships could be readily resolved by reference to authoritative maps, this office does not maintain maps which are sufficiently precise to be regarded as authoritative. Nor would such a map resolve the present dispute. The question of which of appellants' claims are located on withdrawn land does

not depend upon which map is correct but rather will be decided by a finding concerning where on the ground the claims were located. If any are in fact on withdrawn land within T. 13 S., and if they were located subsequent to a withdrawal of the land, the claim or claims were null and void ab initio. If, on the other hand, any are on land in another township, then, unless that land was withdrawn or was otherwise unavailable for the location of mining claims at the time of their location, the claim or claims would not be null and void ab initio.

[2] BLM may properly require a mineral locator to supply a description of the location of his claim to within a quarter section if this information has not been provided with the filing of a location notice. Walter Everly, 52 IBLA 58 (1981); see Floyd & Elsie Patrin, 87 IBLA 152 (1985). A locator's failure to properly record a claim may result in a determination that it has been abandoned and is therefore void. Marion Birch, 53 IBLA 366 (1981); Elbert O. Jenson, 39 IBLA 62 (1979). However, a locator's failure to file a map or the information required by the regulations is a curable defect and BLM must notify the claimant and provide an opportunity to supply the information before declaring the claim to be abandoned and void. As in the present case, this is standard BLM practice. See BLM Manual, § 3833.63 (Rel. 3-132, Apr. 22, 1986).

[3] A mining claimant, however, is not required to submit to BLM information sufficiently precise for his claim or claims to be projected onto a township plat. Arley Taylor, 90 IBLA 313, 316 (1986). Neither the statute nor the regulations requires a precise map or description of the position of the claims. Id.; Robert H. Lawson, 48 IBLA 93 (1980). The regulation requires a locator to supply information as to the quarter section in which his claims are located only "to the extent possible." 43 CFR 3833.1-2(b)(5)(i). A locator is not required to employ a professional surveyor to produce a map. 43 CFR 3833.1-2(b)(7). Alternatively, he may submit "a narrative or a sketch describing the claim or site with reference by appropriate tie to some topographic, hydrographic, or man-made feature." 43 CFR 3833.1-2(b)(5)(ii). In either case, the test established by statute for the sufficiency of a recorded description is whether the claim may in fact be found and identified by following the information provided. Arley Taylor, supra at 317; 43 CFR 3833.1-2(b)(ii). This is a factual question and, unless the description or map is on its face so deficient as to be inadequate as a matter of law, the issue of its sufficiency can be determined only by testing the information in the field. See Floyd & Elsie Patrin, supra at 156; 2 American Law of Mining § 33.09[3] (2d ed. 1985).

[4] Because a recorded description and the map filed with BLM are not required to be precise, the uses which may be made of information submitted necessarily depend upon its relative accuracy. Arley Taylor, supra at 317. If accurate, a map will show the position of a claim in relation to landmarks, other claims, or corners of the public land survey, and may permit BLM to determine that the land on which the claim is located has been withdrawn. But a map is useful only to the extent it accurately represents the territory and claim or claims mapped. In the present case, none of the maps

may be accurate. A comparison of the maps, however, does suggest a reason for the discrepancies. It appears that in preparing the map sent to BLM with the location certificates, Mr. Feldkamp may have used the township line for T. 14 S. and assumed that T. 13 S. lay immediately to the north in conformance to the general pattern of the public land survey. If so, he was not aware of the existence of T. 13 1/2 S. A review of the list of claims specifying quarter sections and sections which was sent to BLM also suggests that the same assumption was made in drawing up the list. It was not unreasonable for BLM to use the information provided by the locator in making its determination that the claims were within T. 13 S. and declaring them null and void for that reason, but the reasonableness of the procedure does not make the claims null and void if their position on the ground does not.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside as to the Manga Nos. 1 through 7, Mango Nos. 3, 7 through 14, 16 through 30, and 31 through 58, and remanded for action in conformity to this decision.

Franklin D. Arness  
Administrative Judge

We concur:

C. Randall Grant, Jr.  
Administrative Judge

John H. Kelly  
Administrative Judge

